IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 71 OF 2006
AND
WRIT PETITION NO. 73 OF 2006

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : B.P. DHARMADHIKARI, J.
FEBRUARY 07, 2006.

In both these writ petitions, the petitioners have questioned the orders dated 23.12.2005 passed by Respondent No.1 – Election Officer, deleting their names from voters list on the ground that the petitioners have not shown that they are members since last two years.

Shri Saboo, learned counsel for the petitioners contends that requirement of Rule 36(1) of the Maharashtra Agricultural Produce Marketing Rules, 1967, is only of three months for becoming a voter in an election for the post of Member of APMC. He invites attention of Court to read the provisions of Section 13 in contradiction to Rule 36(1) and urges that the wordings holding licence for two years appearing in Section 13(1)(b) of the Maharashtra

Agricultural Produce Marketing (Regulation) Act, 1963, are applicable to the person who is to be elected i.e. a person who is elected as a Member who wants to contest the election. His argument is, a voter need not possess licence for two years. In the alternative he further argues that the petitioners in both the petitions have licence for 2002-03 and thereafter for 2004-05 and said licence has been renewed for the year 2005-06. He, therefore, contends that both the petitioners hold licence for two years and therefore their names could not have been deleted from voters list.

Shri Parihar, learned AGP appearing for the respondents contends that the interpretation being put is not correct. He states that a voter also has to possess a licence for two years and in this case when the election programme was declared, the petitioners were not possessing licence for two years as required by Section 13(1)(b). He argues that Rule 36(1) will be required to be read as amended in the light of Section 13(1)(b).

The language of Section 13(1)(b) is very clear. The said provision requires that traders and commission agents who have to elect such members should hold licence for not less than two years to

operate as such in the market area. In the facts of present case when the Election programme is declared in November 2005, the petitioners were not holding licence for two years to operate as such in the market area. The word holding cannot be given a limited or narrow interpretation so as to restrict its scope only to possession of licence to operate for two years. The trader or Commission Agent, in order to be a voter in such election, should be shown to have been holding licence for two years last to operate as such in the market area.

The interpretation put by the learned counsel for the petitioners, therefore, cannot be accepted and I do not find any error in the impugned order.

Writ Petitions are, therefore, dismissed. There shall be no order as to costs.

JUDGE

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